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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,062	07/03/2003	Jack E. Caveney	LCB398	6643

32915 7590 09/18/2006

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EXAMINER	
LAVINDER, JACK W	

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	20060824

DATE MAILED:

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Commissioner for Patents

This letter is to correct a defect in the examiner's answer mailed on 4/25/2006. The defect occurred in the evidence section 8. Every other section in the attached corrected answer is identical to the sections in the answer mailed on 4/25/2006. Corrected section 8 includes a listing of the US patents relied upon in the rejection of the claims in this application. Also, please find the initialed copy of the second page of the IDS received on 7/03/03.

Jack W Lavinder
Primary Examiner
Art Unit: 3677

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/613,062
Filing Date: July 03, 2003
Appellant(s): CAVENEY, JACK E.

Christopher S. Clancy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/21/06 appealing from the Office action mailed 9/15/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

US Patent 5732446 Blanks

US Patent 6035495 Andersen

US Patent 4300270 Sauer

US Patent RE25769 Thurston

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7-9, 11-12 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanks, 5732446 in view of Andersen, 6035495 and Sauer, 4300270.

Blanks discloses all the limitations of applicants claimed invention except for a rib disposed along the return loop and indentations in the opposite sides of the head.

Andersen discloses using a reinforcing rib (13) on a return loop (12', figure 1) and Sauer discloses the use of a plurality of indentations (49, 49a) on the housing of a hose clamp. Both the reinforcing rib and indentations strengthen the clamps. Also, Sauer discloses that the use of a plurality of reinforcing indentations further increases the strength of the clamp.

It would have been obvious to a person having ordinary skill in the art to have added reinforcing ribs and indentations to Blanks's metal tie band, as taught by Andersen and Sauer, to increase the strength of the tie band to improve the reliability of the tie band.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blanks in view of Andersen and Sauer as applied previously and further in view of Thurston, RE25769. Blanks in view of Andersen and Sauer fail to disclose coating the tie. Blanks discloses that the tie is formed from stainless steel or any other type of metal (col.2, lines 30-33). It is well known that stainless steel is corrosion resistant. Therefore, if any other less corrosion resistant metal is used, a need arises for coating the clamp to prevent corrosion from occurring.

Thurston discloses that it is old and well known to coat a metal clamp to provide a means to resist rust formation on the clamp (col. 6, lines 26-34). Therefore, it would have been obvious to a person having ordinary skill in the art to provide Blanks's clamp, when using a metal other than stainless steel, with a rust preventative coating. This will ensure that the clamp will have a longer service life.

(10) Response to Argument

The appellant states on page 8, line 13,

> "Applicant submits, and the Examiner admits, that neither Blanks, Andersen, Sauer nor Thurston, taken alone or in combination, disclose a cable tie having a return loop connecting one end of a strap to an integral hooked portion, with the return loop including at least one rib disposed thereon."

The examiner ***has not*** admitted that neither Blanks, Andersen, Sauer nor Thurston, taken alone or in combination, disclose a cable tie having a return loop connecting one end of a strap to an integral hooked portion, with the return loop including at least one rib disposed thereon. If this were the case--the application would have been allowed. Currently, claims 7-12, 20-24 have been and are still rejected based on Blanks in view of Andersen, Sauer and Thurston (for claim 10).

The appellant states on page 9, second full paragraph

> "In this case, it appears that the Examiner is not looking at the invention "as a whole" but instead is improperly focusing on the differences between the claims and the references (i.e., providing stiffening ribs on the return loop of a cable tie)."

The appellant states at the bottom of page 9 of the brief

> "In order to consider the invention "as a whole", however, the Examiner must view the context in which the invention was made, problems solved by the invention and the like."

The examiner has considered the invention "as a whole". The invention is directed to a tie intended to be used for wrapping about a cable (as stated in the preamble). The problem being solved as stated in the specification on page 1

is to inc **[0004]** It would be desirable to provide a cable tie having improved tensile strength. side of the

locking h **[0005]** It would also be desirable to provide a cable tie locking head having stiffening deformations in the side to increase locking head strength. d with the

problem **[0006]** It would further be desirable to provide a cable tie strap having stiffening ribs along the return loop to increase return loop strength. problem

by addir nnects the

hook (26) to the tie strap (27, figure 2). Blanks doesn't show a stiffening rib on the

return loop. Andersen discloses using a reinforcing rib (13, column 2, line 12) on a return loop (12', figure 1) and Sauer discloses the use of a plurality of indentations (49, 49a) on the housing of a hose clamp. Both the reinforcing rib and indentations strengthen the clamps. Also, Sauer discloses that the use of a plurality of reinforcing indentations further increases the strength of the clamp (col. 6, last line, col. 7, lines 8-11).

Clearly, the examiner is looking at the invention "as a whole", i.e., a cable tie with reinforcing ribs and indentations for strengthening the tie. The improvement to the cable tie lies in the indentations and the ribs for increasing the strength of the tie without increasing the thickness or size of the strap or locking head. The use of these ribs and indentations, as disclosed in Sauer and Andersen, solve the inventor's problem of a weak tie in exactly the same way, i.e., adding stiffening ribs and indentations.

The appellant states on page 10 of the brief that "Andersen would teach nothing to one of ordinary skill in the cable tie art because one of ordinary skill in the cable tie art would not be motivated by any teachings of a one-piece, circular hose clamp, when determining how to improve cable tie performance." The appellant is directing the problem to be with the cable tie art and not the generic tie art, i.e., the invention claimed is only intended to be used with cables. Andersen and Sauer's hose clips are capable of being used on cable ties. Therefore, they are considered to be within the same field of endeavor as appellant's invention, i.e., cable ties. Furthermore, cable ties and hose clips function in very similar, if not identical manners. Both are used to wrap around their intended products in order to engage and hold their products. Both are concerned

with preventing the ties from breaking during use. Therefore, both are considered to be within the inventor's field of endeavor and would be looked to by a person having ordinary skill in the art while trying to solve the problem of a weak tie breaking during use.

The appellant states on page 11 of the brief that "the Examiner admits, that neither Blanks, Andersen nor Sauer, taken alone or in combination, disclose a cable tie having a return loop connecting one end of the strap to an integral hooked portion, with the return loop including at least two ribs disposed thereon." The examiner has not admitted to this. The references taken as a whole disclose motivation to a person having ordinary skill in the art to use more than one reinforcing rib on the tie. Sauer discloses using a plurality of ribs to increase the strength of the tie (49a, 79).

The appellant states on page 12 of the brief that Blanks fails to disclose, teach or suggest a locking head including a lead-in portion at the entry face. The appellant states that the lead-in portion 60 is located at the strap entry face 48. There is no reference number 60 in the drawings. It is assumed that appellant intended to state that the lead-in portion is located by the reference number 50. With this assumption, it is clear that Blanks discloses a locking head (10) having a lead-in portion (left side of the locking head that receives the strap) located next to the entry face (B or 16).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jack W. Lavinder

Conferees: judy swann, dan stodola, jack lavinder